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of the State of California
RUSSELL W. LEE
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Attorneys for Complainant

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation
Against:

Case No. 13-91-14658

RICHARD A. MARTIN, M.D.
1999 Mt. Olive Drive
Santa Rosa, CA 95404-5354

**SURRENDER OF
PHYSICIAN'S AND
SURGEON'S CERTIFICATE
AND ORDER THEREON**

Physician's and Surgeon's
License No. A-22505
Respondent.

IT IS HEREBY STIPULATE AND AGREED by and between the parties to the above entitled matter as follows:

1. At the time of executing and filing the Accusation in the above matter, complainant, Dixon Arnett, was, and is, the Executive Director of the Medical Board of California (hereinafter the "Board") and performed said acts solely in his official capacity as such.

2. Dixon Arnett is represented herein by Daniel E. Lungren, Attorney General of the State of California, by Russell

1 W. Lee, Deputy Attorney General.

2 3. Richard A. Martin, M.D. (hereinafter "respondent"),
3 has elected to represent himself in this matter, and has received
4 and read Accusation No. 13-91-14658 which is presently on file
5 and pending before the Division of Medical Quality of the Medical
6 Board of California, State of California (hereinafter "the
7 Division").

8 4. Respondent understands the nature of the charges
9 alleged in the above-mentioned Accusation, a copy of which is
10 attached hereto as "Exhibit A".

11 5. Respondent's license history and status as set
12 forth in paragraph 2 of the Accusation is true and correct.

13 6. Respondent has carefully read and fully understands
14 the charges and allegations contained in the Accusation and is
15 fully aware of his rights in this matter.

16 7. Respondent hereby freely and voluntarily waives his
17 right to a hearing on the charges and allegations contained in
18 Accusation No. 13-91-14658, and further, respondent agrees to
19 waive his right to reconsideration, judicial review and any and
20 all other rights which may be accorded him by the Administrative
21 Procedure Act and other laws of the State of California.

22 8. Any and all admissions of fact and conclusions of
23 law contained in this stipulation are made exclusively for the
24 purposes of settlement and compromise of this proceeding and any
25 future proceedings between the Division and respondent and shall
26 not be deemed to be admissions for any purpose in any other
27 administrative, civil, or criminal action, forum or proceeding.

1 9. Except as otherwise provided for herein, respondent
2 neither admits nor denies the allegations in Accusation No. 13-
3 91-14658, but for the purposes of settlement and compromise of
4 this proceeding, and to avoid the costs of further litigation
5 (particularly in light of respondent's retirement from medical
6 practice), respondent stipulates and agrees that the Division has
7 jurisdiction to enter into the terms and conditions of this
8 stipulation pursuant to section 2234 of the Business and
9 Professions Code.

10 10. Respondent has retired from medical practice to
11 engage in other pursuits and interests. Respondent therefore
12 desires and agrees to surrender his Physician's and Surgeon's
13 Certificate to the Board, thereby relinquishing his right to
14 practice medicine in the State of California.

15 11. Respondent specifically waives the renewal
16 provisions of Article 19 (Renewal of Licenses) of Chapter 5
17 (Medical Practice Act) of Division 2 (Healing Arts) as set forth
18 in Business and Professions Code sections 2420 et. seq., and
19 agrees that he will not apply to the Division to have his
20 certificate renewed, restored, reissued or reinstated.
21 Respondent further agrees that he will not apply for a new
22 certificate for at least three (3) years after the effective date
23 of this decision and that any such application shall be deemed a
24 petition for reinstatement of the certificate and treated
25 according to the provisions of Business and Professions Code
26 section 2307 or any similar section that is in effect at the time
27 of such an application.

1 12. Respondent expressly agrees that should he in the
2 future petition for reinstatement of his certificate, all of the
3 charges and allegations set forth in Accusation No. 13-91-14658,
4 paragraphs 1 (one) through 32 (thirty-two), shall be deemed
5 admitted as being true and correct for the purposes of said
6 petition for reinstatement.

7
8 STATEMENT OF MITIGATION

9 13. At all times during the investigation and pendency
10 of this case, respondent has been cordial and fully cooperative
11 with Board representatives. During the investigation, a Medical
12 Board consultant who interviewed respondent found respondent to
13 be appropriately and neatly groomed and attired, and to be a
14 pleasant, responsible, and competent psychiatrist.

15 In light of respondent's retirement from his medical
16 practice (in psychiatry), and in order to minimize the costs of
17 contesting the Accusation, so that he can engage in other
18 pursuits in his life, respondent has agreed to this formal
19 surrender of licensure.

20 Respondent graduated from U.C.L.A. School of Medicine
21 in 1966, and volunteered to serve his internship in conjunction
22 with the Peace Corps in the Panama Canal Zone from 1966-1967.
23 From 1967-1970, respondent completed a residency in psychiatry at
24 U.C.L.A. School of Medicine.

25 Respondent has devoted the majority of his professional
26 career as a psychiatrist serving underprivileged individuals or
27 groups, particularly children and adolescents, and has been

1 heavily involved as a volunteer doing pro bono work in his
2 community. Respondent's accomplishments include, but are not
3 limited to, serving as Medical Director of the Child Psychiatry
4 Unit at Camarillo State Hospital, assisting in the Watts
5 community of Los Angeles after the Watts Riots, participating on
6 the Sonoma Mental Health Advisory Board as a Member or
7 Chairperson, participating in Foster Care reform to better assist
8 children in finding permanent homes, assisting the Community
9 Hospital of Santa Rosa in Developing a Department of Psychiatry,
10 coordinating programs to assist patients with A.I.D.S., assisting
11 in programs to help children with developmental disabilities, and
12 conducting research to better treat children of heroin addicted
13 mothers.

14 Respondent is well respected as a physician and as a
15 citizen in his community and is proud to be the father of five
16 fine children.

17 14. In consideration for the above, the Division
18 agrees to accept the surrender of respondent's Physician's and
19 Surgeon's Certificate No. A-22505 upon the terms and conditions
20 specified above.

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1 15. IT IS FURTHER STIPULATED AND AGREED that the terms
2 outlined herein are null and void and in no way binding upon the
3 parties hereto unless and until this Surrender of Physician's and
4 Surgeon's Certificate is adopted by the Division of Medical
5 Quality, Medical Board of California, as its decision in this
6 matter.

7
8 DATED: 5-1-95

9
10 DANIEL E. LUNGREN
11 Attorney General of the
12 State of California

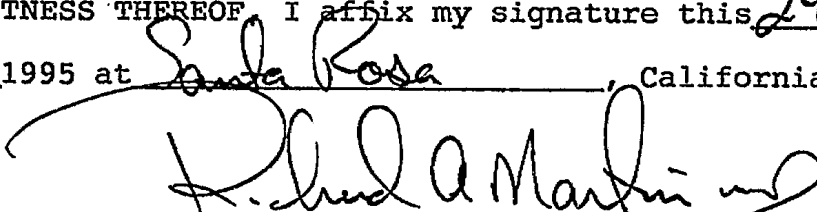
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14 RUSSELL W. LEE
15 Deputy Attorney General

16 Attorneys for Complainant

17 I HEREBY CERTIFY that I have read this Surrender of
18 Physician's and Surgeon's Certificate in its entirety, that I
19 fully understand the same, and that I voluntarily agree to them.

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21 IN WITNESS THEREOF, I affix my signature this 29th day
22 of April 1995 at Santa Rosa, California.

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24 RICHARD A. MARTIN, M.D.
25 Respondent
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EXHIBIT A

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 RUSSELL LEE,
Deputy Attorney General
3 State Bar No. 94106
2101 Webster Street, 12th Floor
4 Oakland, CA 94612
Telephone: (510) 286-3793
5 Attorneys for Complainant
6

7
8 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
9 **STATE OF CALIFORNIA**
10

11 In the Matter of the Accusation)
12 Against:)

No. 13-91-14658

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ACCUSATION

RICHARD A. MARTIN, M.D.
1999 Mt. Olive Drive
Santa Rosa, CA 95404-5354
Physician & Surgeon License
No. A-22505

Respondent.

18 **DIXON ARNETT**, complainant herein, charges and alleges
19 as follows:
20

21 1. He is the Executive Director of the Medical Board
22 of California, State of California (hereinafter "the Board") and
23 makes these charges and allegations solely in his official
24 capacity.

25 2. At all times material herein, respondent RICHARD
26 A. MARTIN, M.D. (hereinafter "respondent") has held physician and
27 surgeon certificate No. A-22505, which was issued to him by the
Board on or about July 1, 1967. Said certificate is in good

1 standing and current at the present time, with an expiration date
2 of July 31, 1994. There is a record of prior disciplinary action
3 taken against said certificate as follows:

4 On January 29, 1985, an Accusation No. D-3305 was filed
5 against respondent, after respondent had been convicted of a
6 violation of Health and Safety Code section 11154 and Penal
7 Code section 496/664. On October 31, 1985, a Decision
8 became effective providing for a revocation of license,
9 stayed, on five years probation, with terms and conditions.

10 On October 31, 1990, probation was terminated.

11 Respondent is not the supervisor of a physician assistant.

12 STATUTES INVOLVED

13 MEDICAL PRACTICE ACT

14 3. Section 2001 of the Business and Professions
15 Code^{1/} provides for the existence of the board.

16 4. Section 2003 provides for the existence of the
17 Division of Medical Quality (hereinafter referred to as the
18 "division") within the board.

19 5. Section 2004 provides, inter alia, that the
20 division is responsible for the administration and hearing of
21 disciplinary actions involving enforcement of the Medical
22 Practice Act (section 2000 et seq.) and the carrying out of
23 disciplinary action appropriate to findings made by a medical
24 quality review committee, the division, or an administrative law
25 judge with respect to the quality of medical practice carried out
26

27 1. All statutory references are to the Business and
Professions Code unless otherwise indicated.

1 by physician & surgeon certificate holders..

2 6. Section 2229, subdivision (a) of the Code,
3 effective January 1, 1991, provides that protection of the public
4 shall be the highest priority for the Division of Medical
5 Quality, a medical quality review committee, and administrative
6 law judges in exercising disciplinary authority.

7 7. Section 125.3 provides, in pertinent part, that in
8 any order issued in resolution of a disciplinary proceeding
9 before any board within the California Department of Consumer
10 Affairs, the board may request the administrative law judge to
11 direct a licensee found to have committed a
12 violation/violations of the licensing act to pay a sum not to
13 exceed the reasonable costs of the investigation and enforcement
14 of the case.

15 8. Section 2220, 2234 and 2227 together provide that
16 the division shall take disciplinary action against the holder of
17 a physician's and surgeon's certificate who is guilty of
18 unprofessional conduct.

19 9. Section 2234 provides in part, as follows:

20 "The Division of Medical Quality shall take
21 action against any licensee who is charged with
22 unprofessional conduct. In addition to other
provisions of this article, unprofessional conduct
includes, but is not limited to the following:

23 (a) Violating or attempting to violate,
24 directly, or assisting in or abetting the
violation of, or conspiring to violate, any
25 provision of this chapter.

26 (b) Gross negligence.

27 (c) Repeated negligent acts"

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1 10. Section 2242 (a) provides that prescribing,
2 dispensing, or furnishing dangerous drugs as defined in Section
3 4211 without a good faith prior examination and medical
4 indication therefor, constitutes unprofessional conduct.

5 11. Section 2239 (a) states, in pertinent part, that
6 the use or prescribing for or administering to himself of any
7 controlled substance constitutes unprofessional conduct.

8 12. Section 2238 states that a violation of any
9 federal statute or federal regulation or and statutes or
10 regulations of this state regulating dangerous drugs^{2/} or
11 controlled substances constitutes unprofessional conduct.

12 CALIFORNIA CONTROLLED SUBSTANCES ACT

13 13. California Health and Safety Code^{3/} § 11007
14 defines a "controlled substance", in pertinent part, as a drug
15 included in Schedules I through V, inclusive, pursuant to Health
16 and Safety Code § 11007.

17 14. Health and Safety Code § 11014 defines drug:

18 "Drug" means (a) substances recognized as drugs
19 in the official United States Pharmacopoeia, official
20 Homeopathic Pharmacopoeia of the United States, or official
21 National Formulary, or any supplement to any of them; (b)
22 substances intended for use in the diagnosis, cure,
mitigation, treatment, or prevention of disease in man or
animals . . . "

23 2. Section 4211 provides, in pertinent part:

24 "Dangerous drug" means any drug unsafe for self-
medication . . . any includes the following:

25 "(c) Any other drug or device that by federal
26 and state law can be lawfully dispensed only on
prescription pursuant to Section 4240 . . . "

27 3. Hereinafter "Health and Safety Code"

1 15. Health and Safety Code § 11027 states:

2 " 'Prescription' means an oral order for a
3 controlled substance given individually for the person(s)
4 for whom prescribed, directly from the prescriber to the
5 furnisher or indirectly by means of a written order of the
6 prescriber"

7 16. Health and Safety Code § 11032 states, in
8 pertinent part:

9 "Whenever reference is made to the term
10 'narcotics' in any provision of law outside this division
11 [Health and Safety Code Division 10 - Uniform Controlled
12 Substances Act], unless otherwise expressly provided, it
13 shall be construed to mean controlled substances classified
14 in Schedules I and II, as defined in this division. . ."

15 17. Health and Safety Code § 11154 states:

16 "(a) Except in the regular practice of his or her
17 profession, no person shall knowingly prescribe, administer.
18 dispense, or furnish a controlled substance to or for any
19 person or animal which is not under his or her treatment for
20 a pathology or condition other than addiction to a
21 controlled substance, except as provided by this division.

22 "(b) No person shall knowingly solicit, direct,
23 induce, aid, or encourage a practitioner authorized to write
24 a prescription to unlawfully prescribe, administer.
25 dispense, or furnish a controlled substance."

26 18. Health and Safety Code § 11170 states that no
27 person shall prescribe, administer, or furnish a controlled
28 substance for himself.

29 19. Health and Safety Code § 11173 states, in
30 pertinent part:

31 "(a) No person shall obtain or attempt to obtain
32 controlled substances . . . by . . . misrepresentation . . .

33 "(b) No person shall make a false statement in any
34 prescription . . . required by this division.

35 . . . "

36 //

1 DRUGS

2 20. The following drugs are classified as follows:

3 (A) Oxycodone Hydrochloride with Acetaminophen is
4 a controlled substance as defined in Schedule II, section
5 11055(b)(1)(N) of the Health and Safety Code, and a dangerous
6 drug as defined in section 4211.

7 (B) Talwin, a trade name for Pentazocine
8 Hydrochloride, is a controlled substance as defined in Schedule
9 IV, section 11507(g)(1) of the Health and Safety Code and a
10 dangerous drug as defined in section 4211.

11 (C) Valium, a brand name for diazepam, is a
12 benzodiazepine derivative, and a Schedule IV controlled substance
13 under California Health and Safety Code § 11057 (d) (8) and a
14 dangerous drug as defined in section 4211.

15 (D) Halcion, a trade name for Triazolam, is a
16 dangerous drug as defined in section 4211 of the code and a
17 schedule IV controlled substance as defined by section 1308.14
18 (c) (1) of Title 21 of the Code of Federal Regulations.

19 (E) Prozac is the trade name for the generic
20 substance Fluoxetine Hydrochloride and is a dangerous drug as
21 defined in section 4211.

22 (F) Trazodone, a trade name for Desyrel, is a
23 dangerous drug as defined in section 4211.

24 (G) Chlorthalidone is a dangerous drug as defined
25 in section 4211.

26 (H) Propranolol is a dangerous drug as defined in
27 section 4211.

1 (I) Amoxicillin is a dangerous drug as defined in
2 section 4211.

3 (J) Betagan is a dangerous drug as defined in
4 section 4211.

5 (K) Clonidine is a dangerous drug as defined in
6 section 4211.

7 (L) Ortho-Novum, a trade name for
8 norethindrone/mestranol is a dangerous drug as defined in section
9 4211.

10 (M) Carafate, a trade name for sucralfate, is a
11 dangerous drug as defined in section 4211.

12 (N) Codeine with Acetaminophen is a controlled
13 substance as defined in Schedule III, section 11056(e)(2) of the
14 Health and Safety Code, and a dangerous drug as defined in
15 section 4211.

16 (M) Cephalexin is a dangerous drug as defined in
17 section 4211.

18 (O) Flurazepam, a benzodiazepine derivative, is a
19 Schedule IV controlled substance under California Health and
20 Safety Code § 11057 (d) (10) and a dangerous drug as defined in
21 section 4211.

22 **FIRST CAUSES OF DISCIPLINARY ACTION**

23 **PRESCRIPTIONS FOR NON-PATIENTS L.B. AND A.B.^{4/}**

24 21. Respondent's certificate to practice as a
25 physician and surgeon is subject to disciplinary action in that
26

27 4. The full names of the individuals alleged herein will
be disclosed upon receipt of respondent's request for discovery.

1 respondent violated Business and Professions Code sections 2234
2 (a), (b), (c), and/or (d), unprofessional conduct constituting
3 gross negligence, repeated negligent acts, and/or incompetence,
4 by writing prescriptions for a non-patients, L.B. and/or A.B., as
5 more particularly alleged hereinbelow in paragraph 22:

6 22. On or about each of the dates set forth below,
7 respondent prescribed the hereinafter set forth dangerous drugs,
8 some of which are also controlled substances, to L.B. and/or
9 A.B., adult females:

10	<u>DATE</u>	<u>PX</u>	<u>QUANTITY</u>	<u>DRUG</u>
11	2-28-92	A.B.	84	Ortho-Novum
12	2-21-92	A.B.	30	Carafate 1 gr.
13	9-21-91	L.B.	15	Halcion .25 mg.
14	6-9-92	L.B.	30	Prozac 20 mg.
15	6-9-92	L.B.	100	Talwin NX
16	12-19-92	L.B.	60	Trazodone 100 mg.
17	11-14-92	L.B.	50	Talwin NX
18	11-13-92	L.B.	60	Diazepam 10 mg.
19	4-28-93	L.B.	100	Chlorthalidone 50 mg.
20	Approx. 4/90	L.B.	60	Oxycodone/APAP 5 mg.

21 In addition:

22 A. Neither L.B. nor A.B. was a patient of
23 respondent's; and/or

24 B. Respondent maintained no medical records on
25 L.B. and/or A.B.; and/or

26 C. Respondent performed no physical examination
27 on L.B. and/or A.B. prior to issuing the prescriptions;

1 and/or

2 D. The prescriptions were contraindicated.

3
4 **THIRD CAUSES FOR DISCIPLINARY ACTION**

5 RESPONDENT'S SELF-PRESCRIBING

6 23. Respondent's certificate to practice as a
7 physician and surgeon is subject to disciplinary action in that
8 respondent violated Business and Professions Code sections 2234
9 (a), (b) (c), and/or (d), unprofessional conduct constituting
10 gross negligence, repeated negligent acts, and/or incompetence,
11 by writing prescriptions for himself, as more particularly
12 alleged hereinbelow in paragraph 24.

13 24. Respondent routinely prescribed dangerous drugs
14 and controlled substances for himself, and/or outside the regular
15 practice of his profession, and/or without conducting a prior
16 physical examination and/or maintaining a medical record.
17 Dangerous drugs, including controlled substances, prescribed by
18 respondent for himself include the following:

19 <u>DATE</u>	<u>QUANTITY</u>	<u>DRUG</u>
20 11-24-89	100	Propranolol 80 mg.
21 4-04-90	100	Propranolol 80 mg.
22 7-20-90	100	Propranolol 80 mg.
23 10-29-90	100	Propranolol 80 mg.
24 4-2-90	100	Propranolol 80 mg.
25 9-26-91	100	Propranolol 80 mg.
26 8-22-90	10	Betagan 0.5%
27 9-11-91	10	Betagan 0.5%

<u>DATE</u>	<u>QUANTITY</u>	<u>DRUG</u>
1-4-92	10	Betagan 0.5%
1-17-92	10	Betagan 0.5%
2-13-92	10	Betagan 0.5%
4-27-92	10	Betagan 0.5%
11-18-92	10	Betagan 0.5%
4-2-93	15	Betagan 0.5%
4-22-91	100	Amoxicillin
7-6-92	60	APAP/Codeine 300/30
5-22-93	60	APAP/Codeine 300/30
5-22-93	30	Cephalexin 500 mg.
?	?	Clonidine
?	?	Flurazepam

FOURTH CAUSES FOR DISCIPLINARY ACTION

25. Respondent's certificate to practice as a physician and surgeon is subject to disciplinary action under Business and Professions Code section 2234 (c) for repeated negligent acts as alleged in paragraphs 22 and/or 24 hereinabove. All the above-listed paragraphs are hereby incorporated by reference as though fully set forth at this point.

FIFTH CAUSES FOR DISCIPLINARY ACTION

26. Respondent's certificate to practice as a physician and surgeon is subject to disciplinary action in that respondent violated Business and Professions Code section 2242 by prescribing dangerous drugs, including controlled substances, to

1 L.B. and/or A.B., without a good faith prior medical examination
2 and medical indication therefor, as follows:

3 The allegations of paragraph 22 are hereby incorporated
4 by reference as though fully set forth at this point.

5
6 **SIXTH CAUSES FOR DISCIPLINARY ACTION**

7 27. Respondent's certificate to practice as a
8 physician and surgeon is subject to disciplinary action in that
9 respondent violated Business and Professions Code section 2242 by
10 prescribing dangerous drugs, including controlled substances, to
11 himself, without a good faith prior medical examination and
12 medical indication therefor, as alleged in paragraph 24, which is
13 hereby incorporated by reference as though fully set forth at
14 this point.

15
16 **SEVENTH CAUSES FOR DISCIPLINARY ACTION**

17 28. Respondent's certificate to practice as a
18 physician and surgeon is subject to disciplinary action in that
19 respondent violated Business and Professions Code section 2239
20 (a) by prescribing the controlled substances APAP/Codeine and/or
21 Flurazepam, for himself, as more particularly alleged in
22 paragraph 24, which is hereby incorporated by reference as though
23 fully set forth at this point.

24
25 **EIGHTH CAUSES FOR DISCIPLINARY ACTION**

26 29. Respondent's certificate to practice as a
27 physician and surgeon is subject to disciplinary action under

1 Business and Professions Code § 2238, in that respondent violated
2 state laws related to controlled substances, as follows:

3 Respondent violated Health and Safety Code § 11154 by
4 prescribing a controlled substance not within the usual course of
5 his medical practice, by prescribing the controlled substances
6 oxycodone/APAP, Halcion, Talwin, and/or Diazepam, to L.B., as
7 more particularly alleged in paragraph 22, which is hereby
8 incorporated by reference as though fully set forth at this
9 point.

10 11 NINTH CAUSES FOR DISCIPLINARY ACTION

12 30. Respondent's certificate to practice as a physician
13 and surgeon is subject to disciplinary action under Business and
14 Professions Code § 2238, in that respondent violated state and
15 federal laws related to controlled substances, as follows:

16 Respondent violated Health and Safety Code § 11154 by
17 prescribing controlled substances not within the usual practice
18 of his profession, by self-prescribing APAP/Codeine and/or
19 Flurazepam, controlled substances, as more particularly alleged
20 in paragraph 24, which is hereby incorporated by reference as
21 though fully set forth at this point.

22 23 TENTH CAUSES FOR DISCIPLINARY ACTION

24 31. Respondent's certificate to practice as a physician
25 and surgeon is subject to disciplinary action under Business and
26 Professions Code § 2238, in that respondent violated state laws
27 related to controlled substances, as follows:

1 Respondent violated Health and Safety Code § 11170 by
2 prescribing controlled substances for himself, in that he self-
3 prescribed APAP/Codeine and/or Flurazepam, controlled substances,
4 as more particularly alleged in paragraph 24, which is hereby
5 incorporated by reference as though fully set forth at this
6 point.

7 **ELEVENTH CAUSES FOR DISCIPLINARY ACTION**

8 32. Respondent's certificate to practice as a
9 physician and surgeon is subject to disciplinary action in that
10 respondent violated Business and Professions Code section 2239,
11 in that on or about September 8, 1993, respondent was using and
12 under the influence of controlled substances, as demonstrated by
13 the presence of benzodiazepines(a) pursuant to a urine test.

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1 WHEREFORE, complainant requests that a hearing be
2 held and that thereafter the Board issue an order:

3 1. Revoking or suspending respondent's physician and
4 surgeon's certificate number A22505 heretofore issued to
5 respondent Richard A. Martin, M.D.;

6 2. Directing respondent to pay to the Board a
7 reasonable sum for its investigative and enforcement costs of
8 this action; and

9 3. Taking such other and further action as is deemed
10 just and proper to protect the public health, safety, and
11 welfare.

12 DATED: July 13, 1994

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15 DIXON ARNETT
16 Executive Director
17 Medical Board of California
18 State of California

19 Complainant

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MBC File No. 13 91 14658